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8	BEFORE THE RESPIRATORY CARE BOARD		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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11	In the Matter of the Petition to Revoke Probation Against:	Case No. R-2035	
12	TEKA T. KIDANU	PETITION TO REVOKE	
13	10511 Lindley Avenue, Apt. #121 Northridge, California 91326	PROBATION	
14	Respiratory Care Practitioner License No. 15066		
15	Respondent.		
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18	Complainant alleges:		
19	PARTIE		
20	1. Stephanie Nunez (Complainant) brings this Petition to Revoke Probation		
21	solely in her official capacity as the Executive Officer of the Respiratory Care Board of California,		
22	Department of Consumer Affairs.		
23	2. On or about March 25, 1992, the Respiratory Care Board issued		
24	Respiratory Care Practitioner License No. 15066 to Teka T. Kidanu (Respondent). On April 2,		
25	2005, pursuant to Welfare and Institutions Code Section 11350.6, respondent was issued a 150		
26	day temporary license which would expire on July 2, 2005. The license was removed from		
27	temporary status on April 25, 2005, and will expire on November 30, 2007, unless renewed.		
28	3. In a disciplinary action entitled	"In the Matter of the Accusation Against	

1	Teka Teferra Kidanu," Case No. R-1952, the Board issued a decision effective January 31, 2005		
2	in which respondent's license was revoked. However, the revocation was stayed and respondent		
3	license was placed on probation for two (2) years with certain terms and conditions. A copy of		
4	that decision is attached as Exhibit A and is incorporated herein by reference.		
5	<u>JURISDICTION</u>		
6	4. This Petition to Revoke Probation is brought before the Respiratory Care		
7	Board (Board), Department of Consumer Affairs, under the authority of the following laws. All		
8	section references are to the Business and Professions Code unless otherwise indicated.		
9	5. Section 3710 of the Code states: "The Respiratory Care Board of		
10	California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3		
11	the Respiratory Care Practice Act]."		
12	6. Section 3718 of the Code states: "The board shall issue, deny, suspend, and		
13	revoke licenses to practice respiratory care as provided in this chapter."		
14	7. Section 3754 of the Code states: "The board may deny an application for,		
15	or issue with terms and conditions, or suspend or revoke, or impose probationary conditions upon		
16	a license in any decision made after a hearing, as provided in Section 3753."		
17	<u>COST RECOVERY</u>		
18	8. Section 3753.5, subdivision (a) of the Code states:		
19	"In any order issued in resolution of a disciplinary proceeding before the board, the		
20	board or the administrative law judge may direct any practitioner or applicant found to have		
21	committed a violation or violations of law to pay to the board a sum not to exceed the costs of the		
22	investigation and prosecution of the case."		
23	9. Section 3753.7 of the Code states:		
24	"For purposes of the Respiratory Care Practice Act, costs of prosecution shall		
25	include attorney general or other prosecuting attorney fees, expert witness fees, and other		
26	administrative, filing, and service fees."		
27	10. Section 3753.1, subdivision (a) of the Code states:		
28	"An administrative disciplinary decision imposing terms of probation may include,		

1 among other things, a requirement that the licensee-probationer pay the monetary costs associated 2 with monitoring the probation." FIRST CAUSE TO REVOKE PROBATION 3 (Probation Monitoring Program) 4 11. 5 At all times after the effective date of Respondent's probation, Condition 8 6 stated: 7 Respondent shall comply with requirements of the Board appointed probation 8 monitoring program, and shall, upon reasonable request, report to or appear to a local 9 venue as directed. 10 Respondent shall claim all certified mail issued by the Board, respond to all notices 11 of reasonable requests timely, and submit Annual Reports, Identification Update reports or 12 other reports similar in nature, as requested and directed by the Board or its representative. 13 Respondent is encouraged to contact the Board's Probation Program at any time he 14 has a question or concern regarding his terms and conditions of probation. 15 Failure to appear for any scheduled meeting or examination, or cooperate with the 16 requirements of the program, including timely submission of requested information, shall 17 constitute a violation of probation and will result in the filing of an accusation and/or a 18 petition to revoke probation against Respondent's respiratory care practitioner license. 19 12. Respondent's probation is subject to revocation because he failed to comply 20 with Probation Condition 8, referenced above. The facts and circumstances regarding this 21 violation are as follows: 22 As part of respondent's random drug testing program, he was required to telephone 23 Compass Vision, Inc. (CVI) on a daily basis to determine if he needed to provide a specimen for 24 testing and analysis. Respondent failed to telephone CVI on December 3 and 14, 2005, and on all 25 dates on and after January 12, 2006. 26 //// 27 ////

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SECOND CAUSE TO REVOKE PROBATION

(Biological Fluid Testing)

13. At all times after the effective date of Respondent's probation, Condition 2 stated:

Respondent, at his expense, shall participate in random testing, including, but not limited to, biological fluid testing (i.e. urine, blood, saliva), breathalyzer, hair follicle testing, or a drug screening program approved by the Board. Test costs range from \$21.00 to \$200.00 each. The length of time shall be for the entire probation period. The frequency and location of testing will be determined by the Board.

At all times, Respondent shall fully cooperate with the Board or any of its representatives, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances.

If Respondent is unable to provide a specimen in a reasonable amount of time from the request, while at the work site, Respondent understands that any Board representative may request from the supervisor, manager or director on duty to observe Respondent in a manner that does not interrupt or jeopardize patient care in any manner until such time Respondent provides a specimen acceptable to the Board.

Failure to submit to testing or appear as requested by any Board representative for testing, as directed shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

14. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 2, referenced above. The facts and circumstances regarding this violation are as follows:

As part of respondent's random drug testing program, he was required to submit to biological fluid testing on the dates selected by Compass Vision, Inc. (CVI). Respondent was selected for testing, but failed to appear and provide a specimen on December 27, 2005, and on January 26, February 10 and May 25, 2006.

THIRD CAUSE TO REVOKE PROBATION

(Abstain from Use of Any and All Mood Altering Substances)

15. At all times after the effective date of Respondent's probation, Condition 3 stated:

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs, and any and all other mood altering drugs, substances and their associated paraphernalia, except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment.

Respondent shall execute a release authorizing the release of pharmacy and prescribing records as well as physical and mental health records. Respondent shall also provide information of treating physicians, counselors or any other treating professionals as requested by the Board.

Respondent shall ensure that he is not in the presence of or in the same physical location as individuals who are using illegal substances, even if Respondent is not personally ingesting the drug(s).

Any positive result that registers over the established laboratory cutoff level shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

Respondent also understands and agrees that any positive result that registers over the established laboratory cutoff level shall be reported to each of Respondent's employers.

16. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 3, referenced above. The facts and circumstances regarding this violation are as follows:

On September 6, 2005, respondent appeared at a collection site to provide a urine specimen for testing and analysis in accordance with his probation monitoring program. On September 14, 2005, the Board received a laboratory report from Compass Vision, Inc. which indicated respondent tested positive for Ethyl Glucuronide at a level of 5200 nanograms/milligrams, consistent with alcohol consumption.

1	FOURTH CAUSE TO REVOKE PROBATION		
2	(Obey All Laws)		
3	17. At all times after the effective date of Respondent's probation, Condition 6		
4	stated:		
5	Respondent shall obey all laws, whether federal, state, or local. Respondent shall		
6	also obey all regulations governing the practice of respiratory care in California.		
7	Respondent shall notify the Board in writing within 14 days of any incident		
8	resulting in his arrest, or charges filed against, or a citation issued against Respondent.		
9	18. Respondent's probation is subject to revocation because he failed to comply		
10	with Probation Condition 6, referenced above. The facts and circumstances regarding this		
11	violation are as follows:		
12	At a hearing on April 4, 2005, respondent was found to be in violation of his		
13	criminal probation in Los Angeles County Superior Court Case No. 3NE02969. The court		
14	revoked and reinstated his probation. He was ordered to serve 120 days in county jail with credit		
15	for 12 days. The court's prior order for community service was vacated. Respondent was		
16	admonished to complete his domestic violence counseling program.		
17	FIFTH CAUSE TO REVOKE PROBATION		
18	(Probation Monitoring Costs)		
19	19. At all times after the effective date of Respondent's probation, Condition 9		
20	stated:		
21	All costs incurred for probation monitoring during the entire probation shall be paid		
22	by the Respondent. The monthly cost may be adjusted as expenses are reduced or		
23	increased. Respondent's failure to comply with all terms and conditions may also cause		
24	this amount to be increased.		
25	All payments for costs are to be sent directly to the Respiratory Care Board and		
26	must be received by the date(s) specified. (Periods of tolling will not toll the probation		

If Respondent is unable to submit costs for any month, he shall be required instead

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monitoring costs incurred.)

to submit an explanation of why he is unable to submit the costs, and the date(s) he will be able to submit the costs including payment amount(s). Supporting documentation and evidence of why the Respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, Respondent understands providing evidence and supporting documentation of financial hardship may delay further disciplinary action.

In addition to any other disciplinary action taken by the Board, an unrestricted license will not be issued at the end of the probationary period and the respiratory care practitioner license will not be renewed, until such time all probation monitoring costs have been paid.

The filing of bankruptcy by Respondent shall not relieve the Respondent of his responsibility to reimburse the Board for costs incurred.

20. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 9, referenced above. The facts and circumstances regarding this violation are as follows:

Respondent is delinquent in his probation monitoring costs in the amount of \$500.00 through May 31, 2006.

SIXTH CAUSE TO REVOKE PROBATION

(Cost Recovery)

21. At all times after the effective date of Respondent's probation, Condition 13 stated:

Respondent shall pay to the Board a sum not to exceed the costs of the investigation and prosecution of this case. That sum shall be \$1,319.50 and shall be paid in full directly to the Board, in equal quarterly payments, within one (1) year from the effective date of this decision. Cost recovery will not be tolled.

If Respondent is unable to submit costs timely, he shall be required instead to submit an explanation of why he is unable to submit these costs in part or in entirety, and the date(s) he will be able to submit the costs including payment amount(s). Supporting documentation and evidence of why the Respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation, and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, Respondent understands that providing evidence and supporting documentation of financial hardship may delay further disciplinary action.

Consideration to financial hardship will not be given should Respondent violate this term and condition, unless an unexpected AND unavoidable hardship is established from the date of this order to the date payment(s) is due.

The filing of bankruptcy by the Respondent shall not relieve the Respondent of his responsibility to reimburse the Board for these costs.

22. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 13, referenced above. The facts and circumstances regarding this violation are as follows:

Respondent is delinquent in his cost recovery in the amount of \$919.50.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 1. Revoking the probation that was granted by the Respiratory Care Board of California in Case No. R-1952;
- 2. Revoking or suspending Respiratory Care Practitioner License No. 15066 issued to Teka T. Kidanu;
- 3. Ordering Teka T. Kidanu to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if probation is continued or extended, the costs

1	of probation monitoring;
2	4. Taking such other and further action as deemed necessary and proper.
3	DATED: June 28, 2006
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5	Original signed by Liane Zimmerman for:
6	Original signed by Liane Zimmerman for: STEPHANIE NUNEZ Executive Officer
7 8	Respiratory Care Board of California Department of Consumer Affairs State of California
9	Complainant
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